

**REMARKS**

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Office Action dated January 7, 2009 has been received and its contents carefully reviewed.

Claims 1 and 10 are hereby amended. Claim 11 is newly added. Support for the amendment and new claim 11 can be found, for example, at Specification, page 8, lines 9-17, page 9, line 21 to page 10, line 2, and page 11, lines 7-10. Accordingly, claims 1-8 and 10-11 are currently pending, of which claim 10 is withdrawn from consideration. Reexamination and reconsideration of the pending claims are respectfully requested.

The Office Action rejects claims 1-8 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0017331 to Okochi et al. (*Okochi*). Applicants respectfully traverse the rejection.

As required in M.P.E.P. § 2131, in order to anticipate a claim under 35 U.S.C. § 102, “the reference must teach every element of the claim.” *Okochi* does not teach every element of claims 1-8, and thus cannot anticipate these claims.

Claim 1 recites “a crosslinking density ranging from 1 to 95%.” *Okochi* fails to teach at least this element of claim 1. The Office Action admits that the crosslinking density is not taught. *Office Action*, page 2. The Office Action further alleges that a gel fraction is a similar property to the crosslinking density. *Id.* Applicants note that the Office has appeared to have asserted Official Notice that it is well known to the gel fraction is a similar property to the crosslinking density. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. See MPEP 2144.03(A). In the instant case, there is no teaching or suggestion in *Okochi*, or apparent knowledge in the art that the gel fraction is a similar property to the crosslinking density. Accordingly, claim 1 is allowable over *Okochi*. Claims 3-8 and newly added claim 11 variously depend from claim 1, and are also allowable for at least the same reasons as claim 1. Applicants, therefore, respectfully request withdrawal of rejection.

The Office Action rejects claims 1-8 under 35 U.S.C. §102(b) as being anticipated by EP 1,262,534 (*EP 534*). Applicants respectfully traverse the rejection.

Claim 1 recites “a crosslinking density ranging from 1 to 95%.” *EP 534* is the European counter part application of *Okochi*. Similarly to the discussed above, *EP 534* fails to teach at least this element of claim 1. Accordingly, claim 1 is allowable over *EP 534*. Claims 3-8 and newly added claim 11 variously depend from claim 1, and are also allowable for at least the same reasons as claim 1. Applicants, therefore, respectfully request withdrawal of rejection.

The Office Action rejects claims 1-8 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,491,646 to Gruber et al. (*Gruber*). Applicants respectfully traverse the rejection.

Claim 1 recites, “100 parts by weight of an acrylic copolymer of i) 90 to 99.9 parts by weight of (meth)acrylate ester monomers having C1 to C12 alkyl groups and ii) 0.1 to 10 parts by weight of vinylic monomers having hydroxyl groups.” *Gruber* fails to teach at least this element of claim 1. In fact, *Gruber* only discloses an aqueous hydrox-functional acrylic latex, not a copolymer. *Gruber*, column 1, lines 50-53. Furthermore, claim 1 recites, “a crosslinking density ranging from 1 to 95%.” *Gruber* also fails to teach at least this element of claim 1. *Gruber* is silent with respect to crosslinking density. Accordingly, claim 1 is allowable over *Gruber*. Claims 3-8 and newly added claim 11 variously depend from claim 1, and are also allowable for at least the same reasons as claim 1. Applicants, therefore, respectfully request withdrawal of rejection.

The Office Action rejects claims 1-8 under 35 U.S.C. §103(a) as being obvious over *Okochi*. Applicants respectfully traverse the rejection.

In order to establish a *prima facie* obviousness of the claimed invention, all the limitations must be taught or suggested by the prior art. *Okochi* does not teach or suggest every element of claims 1-8, and thus cannot render these claims obvious.

Claim 1 recites “a crosslinking density ranging from 1 to 95%.” As discussed, *Okochi* fails to teach or suggest at least this element of claim 1. Accordingly, claim 1 is allowable over *Okochi*. Claims 3-8 and newly added claim 11 variously depend from claim 1,

and are also allowable for at least the same reasons as claim 1. Applicants, therefore, respectfully request withdrawal of rejection.

The Office Action rejects claims 1-8 under 35 U.S.C. §103(a) as being obvious over *EP 534*. Applicants respectfully traverse the rejection.

Claim 1 recites “a crosslinking density ranging from 1 to 95%.” As discussed, *EP 534* fails to teach or suggest at least this element of claim 1. Accordingly, claim 1 is allowable over *EP 534*. Claims 3-8 and newly added claim 11 variously depend from claim 1, and are also allowable for at least the same reasons as claim 1. Applicants, therefore, respectfully request withdrawal of rejection.

The Office Action rejects claims 1-8 under 35 U.S.C. §103(a) as being obvious *Gruber*. Applicants respectfully traverse the rejection.

Claim 1 recites, “100 parts by weight of an acrylic copolymer of i) 90 to 99.9 parts by weight of (meth)acrylate ester monomers having C1 to C12 alkyl groups and ii) 0.1 to 10 parts by weight of vinylic monomers having hydroxyl groups” and “a crosslinking density ranging from 1 to 95%.” As discussed, *Gruber* fails to teach or suggest at least these elements of claim 1. Accordingly, claim 1 is allowable over *Gruber*. Claims 3-8 and newly added claim 11 variously depend from claim 1, and are also allowable for at least the same reasons as claim 1. Applicants, therefore, respectfully request withdrawal of rejection.

The application is in condition for allowance and early, favorable action is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the

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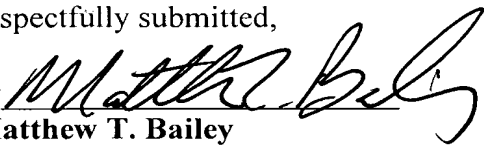
Docket No.: 29137.031.00

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Respectfully submitted,

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